

# SENATE JOURNAL OF THE IDAHO LEGISLATURE

SECOND REGULAR SESSION  
FIFTY-EIGHTH LEGISLATURE

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**FORTY-THIRD LEGISLATIVE DAY  
MONDAY, FEBRUARY 20, 2006**

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 11 a.m.

Roll call showed all members present except Senators Cameron, Hill, Keough, Lodge, McGee, Pearce, Richardson, Sweet, and Werk, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Ashley Burke, Page.

The Senate advanced to the Third Order of Business.

## **Reading and Correction of the Journal**

The JUDICIARY AND RULES Committee reports that the Senate Journals of the proceedings of February 16, 2006, and February 17, 2006, were read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

## **Petitions, Resolutions, and Memorials**

Senators Lodge, Richardson, and Sweet were recorded present at this order of business.

### **SCR 124**

#### **BY JUDICIARY AND RULES COMMITTEE A CONCURRENT RESOLUTION**

STATING FINDINGS OF THE LEGISLATURE AND REQUESTING THE DEPARTMENT OF HEALTH AND WELFARE TO DEVELOP AN INFORMAL DISPUTE RESOLUTION PROCESS WHICH IS PARTIALLY INDEPENDENT FROM THE DEPARTMENT FOR INTERMEDIATE CARE FACILITIES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, intermediate care facilities for the mentally retarded are subject to inspections by the Department of Health and Welfare, Bureau of Facility Standards; and

WHEREAS, other providers, including skilled nursing facilities have informal dispute resolution processes which are partially independent from the Department of Health and Welfare, in order to dispute inspection findings made by the department; and

WHEREAS, intermediate care facilities for the mentally retarded do not have an informal dispute resolution process available to them which is partially independent from the department; and

WHEREAS, an informal dispute resolution process which is partially independent from the department is beneficial to providers, as it provides an avenue to discuss disputed findings; and

WHEREAS, an informal dispute resolution process, which is partially independent from the department, is beneficial to the department as it provides a check and balance to the department.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Department of Health and Welfare is requested to develop an informal dispute resolution process, which is partially independent from the Department, for intermediate care facilities. The Department of Health and Welfare should work with representatives of such facilities to develop the specific guidelines for this resolution process and its implementation including:

(1) Ethics and guiding principles;

(2) How the process will be partially independent from the department, who will serve on the panel and how decisions will be made; and

(3) Timing of the process, including: frequency of hearings, how a facility will apply for an informal dispute hearing and when decisions will be communicated to the facility.

**SCR 124** was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

## **Reports of Standing Committees**

February 17, 2006

The JUDICIARY AND RULES Committee reports that **S 1300**, as amended, **S 1314**, as amended, **S 1340**, as amended, and **S 1354**, as amended, have been correctly engrossed.

DARRINGTON, Chairman

**S 1300**, as amended, **S 1314**, as amended, **S 1340**, as amended, and **S 1354**, as amended, were filed for first reading.

February 17, 2006

The JUDICIARY AND RULES Committee reports that Senate amendments to **S 1300**, **S 1314**, **S 1340**, and **S 1354** have been correctly printed.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

Senators Cameron, Keough, McGee, Pearce, and Werk were recorded present at this order of business.

February 17, 2006

The STATE AFFAIRS Committee reports out **S 1388** with the recommendation that it do pass.

BURTENSHAW, Chairman

**S 1388** was filed for second reading.

February 17, 2006

The JUDICIARY AND RULES Committee reports out **S 1400** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, **S 1400** was referred to the Fourteenth Order of Business, General Calendar.

February 17, 2006

The RESOURCES AND ENVIRONMENT Committee reports out **HJM 10** and **HJM 11** with the recommendation that they do pass.

SCHROEDER, Chairman

**HJM 10** and **HJM 11** were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 17, 2006

The JUDICIARY AND RULES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Robin Sandy to the Commission of Pardons and Parole, term to expire January 1, 2009.

DARRINGTON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

January 20, 2006

The STATE AFFAIRS Committee reports out **H 414**, **H 454**, and **H 556** with the recommendation that they do pass.

BURTENSHAW, Chairman

**H 414**, **H 454**, and **H 556** were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

### Messages from the House

Senator Hill was recorded present at this order of business.

February 17, 2006

Mr. President:

I transmit herewith **H 422**, **H 421**, **H 676**, **H 508**, **H 680**, **H 678**, **H 679**, and **H 480**, as amended, which have passed the House.

JUKER, Chief Clerk

**H 422**, **H 421**, **H 676**, **H 508**, **H 680**, **H 678**, **H 679**, and **H 480**, as amended, were filed for first reading.

February 17, 2006

Mr. President:

I transmit herewith Enrolled **HJR 2** for the signature of the President.

JUKER, Chief Clerk

The President Pro Tempore signed Enrolled **HJR 2** and ordered it returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

### Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

On request by Senator Davis, granted by unanimous consent, the Senate went at ease and resolved itself into the Committee for the Memorial Service.

### MEMORIAL SERVICE

The Service was conducted by Memorial Service Committee Chairmen, Senator Corder and Senator Kelly. The Invocation was delivered by Senator Corder and remarks were presented by Senator Langhorst. Musical selections *Alma Redemptoris Mater*, by Composer Giovanni Pierluigi Da Palestrina, and *In My Life*, by John Lennon and Paul McCartney, were performed by the Mad Jazz Choir, East Junior High School, Boise, Heather Prinzing, Director. The Program cover for the Memorial Service was designed by Jillian Marotz, Senate Page, and the Service was coordinated by June Keithly, Secretary.

### IN THE SENATE A SENATE MEMORIAL

WHEREAS, the late Senator RICHARD DAVE ESKELIN passed on since the close of the First Regular Session of the Fifty-eighth Legislature - to wit, August 3, 2005.

WHEREAS, the late Senator RICHARD DAVE ESKELIN served the Senate in the interest of Ada County during the Forty-second Legislature of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED THAT the Senate of the Second Regular Session of the Fifty-eighth Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator RICHARD DAVE ESKELIN; and

BE IT FURTHER RESOLVED, that the Senate of the Second Regular Session of the Fifty-eighth Legislature extends to the bereaved family the heartfelt sympathy of this entire body, and

BE IT FURTHER RESOLVED, that the Secretary of the Senate be, and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the RICHARD DAVE ESKELIN family.

On motion by Senator Davis, seconded by Senator Stennett, the Memorial to the late Senator Eskelin was adopted by voice vote.

Lieutenant Governor James E. Risch was invited to join the members of the Senate in the Chamber and presented his tribute to his colleague, the late Senator Eskelin.

#### **IN THE SENATE A SENATE MEMORIAL**

WHEREAS, the late Senator REX FURNESS passed on since the close of the First Regular Session of the Fifty-eighth Legislature - to wit, April 24, 2005;

WHEREAS, the late Senator REX FURNESS served in the interest of Clark, Custer, Jefferson, and Lemhi, Counties during the Fiftieth through the Fifty-third Legislatures of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator REX FURNESS; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the REX FURNESS family.

On motion by Senator Burtenshaw, seconded by Senator Stennett, the Memorial to the late Senator Furness was adopted by voice vote.

#### **IN THE SENATE A SENATE MEMORIAL**

WHEREAS, the late Senator LESTER A. HARTVIGSEN passed on since the close of the First Regular Session of the Fifty-eighth Legislature - to wit, January 7, 2006;

WHEREAS, the late Senator LESTER A. HARTVIGSEN served in the interest of Pocatello, South Bannock and Oneida Counties during the Forty-third through the Forty-fifth Legislatures of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator LESTER A. HARTVIGSEN; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the LESTER A. HARTVIGSEN family.

On motion by Senator Marley, seconded by Senator Darrington, the Memorial to the late Senator Hartvigsen was adopted by voice vote.

#### **IN THE SENATE A SENATE MEMORIAL**

WHEREAS, the late Senator RALPH LACY passed on since the close of the First Regular Session of the Fifty-eighth Legislature - to wit, May 23, 2005;

WHEREAS, the late Senator RALPH LACY served in the interest of Bannock County during the Forty-Seventh through the Fiftieth Legislatures of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator RALPH LACY; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the RALPH LACY family.

On motion by Senator Marley, seconded by Senator Darrington, the Memorial to the late Senator Lacy was adopted by voice vote.

Former Senator Bert W. Marley was invited to join the members of the Senate in the Chamber and presented his tribute to his colleague, the late Senator Lacy.

#### **IN THE SENATE A SENATE MEMORIAL**

WHEREAS, the late Senator ALLAN F. LARSEN passed on during the First Regular Session of the Fifty-eighth Legislature - to wit, March 9, 2005;

WHEREAS, the late Senator ALLAN F. LARSEN served in the interest of Bingham County during the Fifty-first Legislature of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator ALLAN F. LARSEN; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the ALLAN F. LARSEN family.

On motion by Senator Williams, seconded by Senator Stennett, the Memorial to the late Senator Larsen was adopted by voice vote.

#### **IN THE SENATE A SENATE MEMORIAL**

WHEREAS, the late Senator PATRICIA L. McDERMOTT passed on during the First Regular Session of the Fifty-eighth Legislature - to wit, April 5, 2005;

WHEREAS, the late Senator PATRICIA L. McDERMOTT served in the interest of Bannock County during the Fifty-first Legislature of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator PATRICIA L. McDERMOTT; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the PATRICIA L. McDERMOTT family.

On motion by Senator Malepeai, seconded by Senator Little, the Memorial to the late Senator McDermott was adopted by voice vote.

Former Senator Chick Bilyeu was invited to join the members of the Senate in the Chamber and presented his tribute to his colleague, the late Senator McDermott.

#### **IN THE SENATE A SENATE MEMORIAL**

WHEREAS, the late Senator JERROLD LEWIS THORNE passed on during the Second Regular Session of the Fifty-eighth Legislature - to wit, January 18, 2006;

WHEREAS, the late Senator JERROLD LEWIS THORNE served in the interest of Canyon County during the Forty-eighth through the Fifty-sixth Legislatures of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator JERROLD LEWIS THORNE; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Fifty-eighth Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the JERROLD LEWIS THORNE family.

On motion by Senator Lodge, seconded by Senator Stennett, the Memorial to the late Senator Thorne was adopted by voice vote.

The Benediction was offered by Chaplain Hardenbrook.

Senator Kelly declared the committee for the Memorial Service dissolved. Following the Memorial Service, President Pro Tempore Geddes called the Senate to order.

Prior to the Memorial Service, The Senate was at the Eleventh Order of Business, Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials.

#### **S 1406 BY STATE AFFAIRS COMMITTEE AN ACT**

RELATING TO MEMBERSHIP ON THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-102, IDAHO CODE, TO PROVIDE FOR AN EX OFFICIO NONVOTING MEMBER OF THE STATE BOARD OF EDUCATION TO BE A STUDENT OF A STATE SUPPORTED COLLEGE OR UNIVERSITY, TO PROVIDE ELIGIBILITY CRITERIA FOR THE STUDENT AND TO PROVIDE WHEN THE GOVERNOR SHALL APPOINT THE STUDENT MEMBER.

#### **S 1407 BY JUDICIARY AND RULES COMMITTEE AN ACT**

RELATING TO JUDICIAL DISTRICTS; AMENDING SECTION 1-802, IDAHO CODE, TO INCREASE THE NUMBER OF DISTRICT JUDGES AND RESIDENT CHAMBERS IN THE FIRST DISTRICT; AND AMENDING SECTION 1-804, IDAHO CODE, TO INCREASE THE NUMBER OF DISTRICT JUDGES AND RESIDENT CHAMBERS IN THE THIRD DISTRICT.

#### **S 1408 BY JUDICIARY AND RULES COMMITTEE AN ACT**

RELATING TO JUDGES' RETIREMENT AND COMPENSATION; AMENDING SECTION 1-2003, IDAHO CODE, TO INCREASE FEES IN CIVIL ACTIONS AND APPEALS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 1-2004, IDAHO CODE, TO INCREASE THE PERCENTAGES OF SALARY DEDUCTIONS AND FUND CONTRIBUTIONS AND TO MAKE TECHNICAL CORRECTIONS.

**S 1409****BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO COURTS; AMENDING CHAPTER 22, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2224, IDAHO CODE, TO ESTABLISH THE SENIOR MAGISTRATE JUDGES FUND TO ENABLE THE IDAHO SUPREME COURT TO PURCHASE MEMBERSHIP SERVICE IN THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO FOR CERTAIN RETIRING MAGISTRATE JUDGES, TO AUTHORIZE THE IDAHO SUPREME COURT TO ADOPT RULES AND TO PROVIDE FOR THE ACCUMULATION AND INVESTMENT OF MONEYS IN THE FUND; AMENDING SECTION 31-3201A, IDAHO CODE, TO INCREASE COURT FEES AND TO PROVIDE FOR THE DEPOSIT OF FEES; PROVIDING AN EFFECTIVE DATE AND PROVIDING APPLICATION.

**S 1410****BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO EXEMPTION FROM WORKER'S COMPENSATION COVERAGE; AMENDING SECTION 72-212, IDAHO CODE, TO EXEMPT OFFICIALS OF ATHLETIC CONTESTS INVOLVING MUNICIPAL RECREATION PROGRAMS.

**S 1411****BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1305, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE DEFENSE AND INDEMNIFICATION OF RETIREMENT BOARD MEMBERS, SYSTEM STAFF AND SYSTEM MORTGAGE AND INVESTMENT COMMITTEE MEMBERS; AND AMENDING SECTION 59-1308, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE DEFENSE AND INDEMNIFICATION OF RETIREMENT BOARD MEMBERS AND SYSTEM STAFF.

**S 1412****BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO PHARMACISTS; AMENDING SECTION 54-1705, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1733, IDAHO CODE, TO PERMIT ELECTRONIC SIGNATURES AND TRANSMISSION OF PRESCRIPTION DRUG ORDERS, TO PERMIT PRESCRIPTION DRUG ORDERS TO BE SENT BY FACSIMILE TRANSMISSION FROM A HEALTH CARE FACILITY TO THE PRESCRIPTION DEPARTMENT OF A PHARMACY, TO PERMIT PRESCRIPTION DRUG ORDERS TO BE RECEIVED BY A PHARMACIST VERBALLY OR BY FACSIMILE; AMENDING SECTIONS 37-3201, 54-4702 AND 54-5110, IDAHO CODE, TO PROVIDE FOR CORRECT CODE CITATIONS; AND DECLARING AN EMERGENCY.

**S 1413****BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO HONORARIUMS AND EXPENSES; AMENDING SECTION 59-509, IDAHO CODE, TO PROVIDE FOR SPECIFIED PER DIEM HONORARIUM AND FOR ACTUAL AND NECESSARY EXPENSES OF MEMBERS OF PART-TIME BOARDS, COMMISSIONS OR COUNCILS.

**S 1406, S 1407, S 1408, S 1409, S 1410, S 1411, S 1412, and S 1413** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

**S 1300**, as amended, by Judiciary and Rules Committee, was read the first time at length and filed for second reading.

**S 1314**, as amended, by Commerce and Human Resources Committee, was read the first time at length and filed for second reading.

**S 1340**, as amended, by Health and Welfare Committee, was read the first time at length and filed for second reading.

**S 1354**, as amended, by Judiciary and Rules Committee, was read the first time at length and filed for second reading.

**H 422, H 421, H 676, H 508, H 680, H 678, H 679, and H 480**, as amended, by Revenue and Taxation Committee, were introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

The Senate advanced to the Twelfth Order of Business.

**Second Reading of Bills**

**H 453**, by State Affairs Committee, was read the second time at length and filed for third reading.

**S 1371, S 1362, and S 1375**, by Commerce and Human Resources Committee, were read the second time at length and filed for third reading.

**S 1347**, by Transportation Committee, was read the second time at length and filed for third reading.

**H 462 and H 464**, by Transportation and Defense Committee, were read the second time at length and filed for third reading.

**S 1383**, by Local Government and Taxation Committee, was read the second time at length and filed for third reading.

**S 1389**, by Health and Welfare Committee, was read the second time at length and filed for third reading.

On request by Senator Little, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

**Miscellaneous Business**

On motion by Senator Little, seconded by Senator Stennett, by voice vote the Senate adjourned at 1:05 p.m. until the hour of 10:30 a.m., Tuesday, February 21, 2006.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary